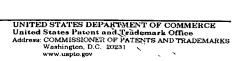


United States Patent and Trademark Office



APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/481,733	01/11/2000	PATRICK V. WARREN	DIVER1240-5	6043
20985	7590 08/06/2002			
FISH & RICHARDSON, PC 4350 LA JOLLA VILLAGE DRIVE SUITE 500 SAN DIEGO, CA 92122			EXAMINER	
			SLOBODYANSK	ODYANSKY, ELIZABETH
SAN DIEGO,	CA 92122		ART UNIT	PAPER NUMBER
			1652	ي ع
		DATE MAILED: 08/06/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

Applicant(s) Application No. WARREN ET AL. 09/481,733 **Advisory Action** Art Unit Examiner 1652 Elizabeth Slobodyansky -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. THE REPLY FILED Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. PERIOD FOR REPLY [check either a) or b)] __months from the mailing date of the final rejection. The period for reply expires ___ b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 1. A Notice of Appeal was filed on 22 July 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal. 2. The proposed amendment(s) will not be entered because: (a) \(\times \) they raise new issues that would require further consideration and/or search (see NOTE below); (b) they raise the issue of new matter (see Note below); (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) \(\times \) they present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. 3. Applicant's reply has overcome the following rejection(s): double patenting rejection of claims 1-3, 13, 14, 25-34. 4. Newly proposed or amended claim(s) 37 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet. 6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection. 7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: _____ Claim(s) objected to: 4-12.

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Claim(s) rejected: 1-3, 13, 14, 17-35.

Claim(s) withdrawn from consideration: ____

10. Other: Interview Summary (Paper #17); form PTO-948

8. The proposed drawing correction filed on ____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

Elizabeth Slobodyansky Primary Examiner Art Unit: 1652





Continuation of 2. NOTE: 112, 1st paragraph, rejections, will be maintained because the claims are still drawn to probes that are 70% complementary to any 10-50 bp fragment of SEQ ID NOs: 25-32. The rejections should possibly be reworded in view the amendemnt. The similar 112, 1st paragraph, rejections would apply to new claim 36. Claim 36 would require also 112, 2nd paragraph, rejection over "stringent conditions". Claim 33 would be rejected at least under 112, 2nd paragraph, as reciting "polypeptide encoding".

Continuation of 5. does NOT place the application in condition for allowance because: neither the specification nor the art teach which "70%" probes will be specific and useful for recovery of SEQ ID NOs: 25-32.